



**BY: John Holden, Research Assistant**

**EDITED BY: Ariana Monti, International Trade Specialist**

## Summary

This document provides a general overview of the issues surrounding the sale of software to countries in the European Union (E.U.). In some situations, there may be few restrictions, while in others they may be numerous; the design, usage and target market of the software itself will ultimately determine how complicated international sales are.

This report provides an overview of European privacy and trademark laws, as well as links to and summaries of resources for distribution, encryption export, taxes, tariffs and languages.

## General Considerations

### Language Barriers

Between all of its members, the European Union has a number of official languages, and not one particular “common” language. Of the official languages, English is the most common, with approximately 47% of Europeans claiming they are able to speak it. English is followed by German (30%), then French (23%), Italian (15%) and Spanish (14%). Among non-English-speaking countries, Malta has the largest percentage of English-as-a-second-language speakers, at 89%, followed by the Netherlands (87%), Sweden (85%), Denmark (83%), Cyprus (71%), Luxembourg (66%) and Finland (60%). (Source: [http://en.wikipedia.org/wiki/Languages\\_of\\_the\\_European\\_Union](http://en.wikipedia.org/wiki/Languages_of_the_European_Union))

While a number of countries have a high percentage of English speakers, it’s important to consider cultural and legal prohibitions on foreign languages. For example, French advertising law does not permit English words to be substituted for French words on product labels.

And failing to offer native-language translations of products can significantly reduce the marketing reach of your product in a place where less than half of the population understands your language—even with an understanding of English, using such software may be more inconvenient than it’s worth.

Furthermore, the individual making the purchasing decision for a large software product is not necessarily the end user; for example, a central office may want to implement the software

### **Official Languages of the E.U.**

- Czech
- Danish
- Dutch
- English
- Estonian
- Finnish
- French
- German
- Greek
- Hungarian
- Irish (January, 2007)
- Italian
- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese
- Slovak
- Slovene
- Spanish
- Swedish

company-wide, but a regional office may not have any proficient English speakers and therefore be incapable of using the software.

Some Scandinavian countries are particularly more accepting of software with English-only interfaces. Sweden also has the highest per-capita rate of multinational companies. With this in mind, a company looking to delay translation of its interfaces might find it beneficial to consider countries like Norway and Sweden, along with English-speaking countries such as the U.K. and Ireland, as a way to ease into the European market.

### **Conventions and Norms**

When developing application user interfaces, there are many things to keep in mind. Among these are conventions such as the format of dates, the first day of a week, phone numbers, addresses, usage of surnames, currencies, and much more. While adapting interfaces for European markets is somewhat simpler than adapting for Asian markets, it is still a very complex process. Regardless of the language of the interface itself, special care should be taken to ensure the application can store data with a Unicode character set, so that all special characters (such as those in a person's name) can be handled without a problem.

Many solutions have been developed to handle “internationalization”, “localization” and “globalization”, as it is variously termed. In many cases, the process of modifying source code to handle one additional language can be slightly expanded to enable the software to easily display *any* language. Applications developed for Microsoft Windows 2000 and later operating systems can make use of a number of built-in internationalization features; a link to the Microsoft GlobalDev website is provided below.

### **Additional Resources**

#### **Microsoft Global Development and Computing Portal**

Resources for software developers, mainly revolving around language issues, but touching on many technical subjects.

<http://www.microsoft.com/globaldev/default.mspix>

#### **Selling in France**

General information on the subject of selling products in France. This is provided as a starting point for thinking about issues surrounding European sales, marketing and distribution.

[http://www.buyusainfo.net/docs/x\\_2490439.pdf](http://www.buyusainfo.net/docs/x_2490439.pdf)

<b>Privacy Laws</b>
---------------------

European privacy laws have become a consideration for foreign companies who transfer employee data to offices outside the E.U. Of primary concern is a restriction prohibiting any company from sending personal employee data to the U.S. without first proving the receiving office's security and privacy policies meet E.U. privacy standards. It is not safe to assume that a company already has sufficient measures in place; instead, a company should review its employer policy and compare it with the guidelines set forth in the *Directive of Data Protection*. The European Commission will accept a contract, expressing specific terms, as a satisfactory for the transfer of personal data to other countries. More details may be found at [http://ec.europa.eu/justice\\_home/fsj/privacy/modelcontracts/index\\_en.htm](http://ec.europa.eu/justice_home/fsj/privacy/modelcontracts/index_en.htm).

These laws apply not only to businesses selling software into the E.U., but can also apply to customers purchasing that software. One option to reassure customers and government officials is to implement published standards in the design of your software, such as the ISO/IEC 27001:2005 *Standard for Information Security Management*. Adhering to international standards in general is nearly always beneficial in international trade, simply because it provides a common, accepted reference for any country in which your company chooses to sell.

**Additional Resources**

**Trans-National Employers Must Harmonize Conflicting Privacy Rules**

This article offers commentary on the complications behind balancing E.U. privacy laws in multinational businesses.

<http://www.wrf.com/docs/publications/11542.pdf>

**Directive of Data Protection**

This is the official document detailing all of the restrictions for conforming member states.

[http://www.cdt.org/privacy/eudirective/E.U. Directive .html](http://www.cdt.org/privacy/eudirective/E.U._Directive_.html)

**ISO/IEC 27001:2005 Standard for Information Security Management**

Newly released standards for information security can give a company international security

<http://www.iso.org/iso/en/commcentre/pressreleases/archives/2005/Ref976.html>

**OECD Guidelines for The Security of Information Systems and Networks**

Non-technical, goal-oriented guidelines for community-based information security.

<http://www.oecd.org/dataoecd/16/22/15582260.pdf>

Trademarks
------------

### **Community Trade Mark**

In order to protect a trademark in most E.U. member nations, it is best to register for a European Community Trade Mark (C.T.M.), which provides trademark protection in Austria, Belgium, the Netherlands, Luxemburg, Denmark, Finland, Germany, Greece, Ireland, Italy, Portugal, Spain, Sweden, and the United Kingdom. One form and one fee encompass registration for all of these countries. The application must be submitted in one of the twenty official languages of the E.U. (including English), but a copy of the form must be submitted in one of five “primary” languages (Spanish, German, English, French or Italian)—which must be different from the language of the first copy. Links to forms in each of the five primary languages are included at the end of this section.

Additionally, trademarks may be registered in one or many individual countries, and any country-level registration is sufficient to invalidate any later registrations by other parties, either in that particular country or as a C.T.M.; however, it does not prevent another party from registering the trademark in a different country. Generally, C.T.M.s are preferred because they provide the broadest level of trademark protection without the inconvenience and expense of numerous individual registrations.

The C.T.M. e-filing application fee for up to three international (product) classes is €750, plus a registration fee of €850 upon approval of the application, for a total of €1600 (approximately US\$2,038 as of August 2006). A paper application may be submitted in place of the e-filing application for a cost of €900 (replacing the €750 fee), bringing the total for paper-based registration to €1750.

### **Additional Resources for CTM**

#### **Office for Harmonization in the Internal Market, official website**

This office is responsible for administering the Community Trademark. All necessary forms, e-forms, documentation and contact information can be found here.

<http://oami.europa.eu/en/mark/default.htm>

#### **C.T.M. Application Forms, by language**

English	<a href="http://oami.europa.eu/en/mark/marque/pdf/demande.pdf">http://oami.europa.eu/en/mark/marque/pdf/demande.pdf</a>
French	<a href="http://oami.europa.eu/fr/mark/marque/pdf/demande.pdf">http://oami.europa.eu/fr/mark/marque/pdf/demande.pdf</a>
German	<a href="http://oami.europa.eu/de/mark/marque/pdf/demande.pdf">http://oami.europa.eu/de/mark/marque/pdf/demande.pdf</a>
Italian	<a href="http://oami.europa.eu/it/mark/marque/pdf/demande.pdf">http://oami.europa.eu/it/mark/marque/pdf/demande.pdf</a>
Spanish	<a href="http://oami.europa.eu/es/mark/marque/pdf/demande.pdf">http://oami.europa.eu/es/mark/marque/pdf/demande.pdf</a>

### **Madrid Protocol International Registration**

Instead of applying for the C.T.M., a company with an existing U.S. (or other nation's) trademark, may apply for an International Trademark as part of the Madrid Protocol, thereby protecting its trademark in all countries that abide by the Madrid Protocol. Key advantages to the Madrid Protocol registration (Madrid system) include:

- Application form may be completely solely in English
- Registration offers protection of the trademark in a broad choice of countries
- The application is filed through the domestic trademark registrar (U.S. Patent and Trademark Office)

While the Madrid system offers greater flexibility (through detailed selection of nations for registration) the fees can be burdensome in some cases. On the other hand, specific countries may be selected or excluded (and would otherwise be included as part of the C.T.M.), potentially *reducing* the cost of registration. Yet in other cases, the Madrid system may be the only other way to register your trademark without going directly to the national trademark registrar.

### **Additional Resources for the Madrid System**

An online calculator for the Madrid Protocol fees is available at:

<http://www.wipo.int/madrid/feecalc/FirstStep>

### **WIPO: Madrid System, official website**

A service of the World Intellectual Property Organization, the *Madrid System for the International Registration of Marks* provides international registration of trademarks using a single, inclusive form. Registration must be submitted by a specific country's trademark registrar, but more information can be obtained at the WIPO website.

<http://www.wipo.int/madrid/en/>

### *Trademark Registration Comparison, Example Fees*

<b>Registered Countries</b>	<b>Madrid Protocol<sup>1</sup></b>	<b>Community Trademark<sup>1,2</sup></b>
U.K., Ireland	US\$ 1351	US\$ 2038
U.K., BENELUX, Germany	US\$ 1307	US\$ 2038
U.K., Ireland, BENELUX, Germany, Austria	US\$ 1669	US\$ 2038
France, Switzerland, Spain, Italy, BENELUX, Portugal	US\$ 1715	US\$ 2038
U.K., Ireland, BENELUX, Germany, Austria, France, Switzerland, Spain, Italy, BENELUX, Portugal	US\$ 2450	US\$ 2038
European Community	US\$ 2548	US\$ 2038
U.K., Ireland, BENELUX, Germany, Austria, Finland, Sweden, Norway, Denmark	US\$ 2805	<i>Does not cover all countries</i>

<sup>1</sup> Based on exchange rates as of 12 July, 2006

<sup>2</sup> C.T.M. rates based on e-filing method, including application and registration

<b>Classification</b>
-----------------------

**CD-ROM application**

The TARIC (Integrated Tariff of the European Communities) code for CD-ROM software is: *For reproducing representations of instructions, data, sound, and image recorded in a machine-readable binary form, and capable of being manipulated or providing interactivity to a user, by means of an automatic data-processing machine* 8524.39.1000. Duty-free from the U.S. into the E.U.

**User's manual**

*Printed books, brochures, leaflets and similar printed matter, other than in single sheets* 4901.99.0055. Duty-free from the U.S. into the E.U.

A CD-ROM combined with a user's manual is considered a set, since they are sold together.

<b>Taxes and Tariffs</b>
--------------------------

As either an electronic download, or as a physical CD-ROM and printed user's manual, there are no duties levied when a software product is imported from the U.S. into the E.U.

For both products, VAT applies to any material goods; several countries and their VAT rates are listed on this page. All rates are based on the total Cost, Insurance, Freight (CIF) value of the goods, which is determined by the final sale price, plus cost of shipping insurance and freight; for example, a US\$4000 product that costs \$50 to ship, and \$50 to insure, would have taxable CIF value of \$4100.

Country	Standard VAT Rate*
Austria	20%
Belgium	21%
France	19.6%
Germany	16%
Ireland	21%
Italy	20%
Netherlands	19%
Spain	16%
Sweden	25%
U.K.	17.5%

\* % of C.I.F.

Source: <http://en.wikipedia.org/wiki/VAT>

In other situations, some countries will collect a tax on the post-sale price of the software, because the payment is considered a royalty. This is typically paid by the purchaser, but deducts from the total your company will receive. For instance, if a country has a 10% royalty tax, and your product sells for US\$1000, you will only receive \$900, and the remaining \$100 will be paid to the government.

**Additional Resources**

**Withholding taxes on Software Royalties**

In some countries withholding taxes and/or income taxes may be applicable to the sale of software. For more details, visit the website below.

<http://web.ita.doc.gov/ITI/itiHome.nsf/5713559d82a954b085256cc40075a766/4e39d689652188f585256d810075a1fb!OpenDocument>

**Taxes and Tariffs on Computer Software and Hardware in Western Europe**

The following page provides approximate tax rates for western European countries.

<http://web.ita.doc.gov/ITI/itiHome.nsf/9b2cb14bda00318585256cc40068ca69/02a8ed8c1550b42a85256d8100739caa!OpenDocument#4%20This%20withholding%20tax%20rate%20ref>

<b>Encryption Export Requirements</b>
---------------------------------------

Export restrictions vary based upon the specific method of encryption used in a product. Persons familiar with the product's encryption should assess the product using the U.S. Bureau of Industry and Security (B.I.S.) website listed below.

Generally, unless the product utilizes weak encryption with key lengths of 64-bits or less, or the algorithms are publicly available (such as OpenSSL), export to the E.U. will require specific approval from the B.I.S.

To determine if the product's encryption will be subject to encryption review or notification requirements, the following website may be useful:

<http://www.bis.doc.gov/encryption/ChecklistInstr.htm>

It is likely that an individual license exemption will be granted to allow export. Licenses are granted within 30 days of the completed request. Details on applying for a license (first determine your requirements using the Check List above) may be found at the B.I.S. website,

<http://www.bis.doc.gov/encryption/default.htm>

<b>Distribution</b>
---------------------

The internet and mailed shipping methods make delivery of software relatively straightforward throughout Europe; however, another excellent way for smaller U.S. companies to penetrate the European market is through partnerships.

Ireland, in particular, is regarded as Europe's largest software exporter, and many companies there can easily facilitate European distribution of U.S. software products.

Outsourcing lower-priced, "boxed" software can be done very easily thanks to companies like Element 5 (Digital River), a company that provides full solutions for billing and fulfillment, both domestically and abroad. Online delivery methods can reduce the complications involved with mailing physical product, as well as reduce the cost of producing those materials. Piracy has historically been a concern with electronic distribution of software, but it should be noted that software on physical media is not necessarily any more difficult to pirate than its electronic counterpart.

In the E.U., software is protected by copyright as a literary work, and not as a patentable system. A significant difference between U.S. software copyrights and those in the E.U. is that E.U. copyrights permit unauthorized decompilation by the end user, for the purposes of interoperability with other software. There are several conditions to this, including that the information obtained may not be used to create software that is substantially similar in function, may not be publicly distributed, and must be limited to the areas of the software that are needed for interoperability. Furthermore, if all necessary information pertaining to creating interoperable software has been made available to the end-user (possibly achieved by offering a fully-documented Application Programming Interface (API)), decompilation is not permitted.

**Software in Ireland**

Ireland is proving to be one of the world's largest software exporters, and already serves as an international "jumping point" for selling software abroad. This document provides an overview of the software industry in Ireland.

[http://www.buyusainfo.net/docs/x\\_1801649.pdf](http://www.buyusainfo.net/docs/x_1801649.pdf)

**E.U. Software Directive**

Legal protections and requirements of software, especially related to modification and disclosure, for products distributed in the E.U.

<http://website.lineone.net/~takist/App5.htm>

<b>About the Vermont Global Trade Partnership</b>
---

This report is provided to support Vermont software developers interested in developing their export sales.

The Vermont Global Trade Partnership (VGTP) is Vermont's center for international business assistance, providing technical assistance and trade counseling, import and export leads, educational programs, coordinated trade missions and trade shows, plus many other services helping Vermont companies in international markets. The Partnership is comprised of Vermont's abundant public and private international trade resources, coordinated through the leadership of Vermont's Director of International Trade in the Agency of Commerce & Community Development and the organizations listed on the following pages.

Dana Eidsness, Director of International Trade

Phone: (802) 828 1681 Fax (802) 828 3258

E-mail: [dana@thinkvermont.com](mailto:dana@thinkvermont.com)

Ariana Monti, Intl Trade Specialist

Phone: (802) 828 1176

E-mail: [ariana@thinkvermont.com](mailto:ariana@thinkvermont.com)

Web: [www.thinkvermont.com/globaltrade](http://www.thinkvermont.com/globaltrade)